

REMARKS**Status of Claims**

Claims 1 – 53 and 55 are pending.

Claim 54 was cancelled.

No claims are amendeded or added in this response.

Reconsideration of the application is requested.

Information Disclosure Statement

In the Advisory Action dated July 5, 2007, the Examiner indicated that the IDS submitted on May 9, 2007 was not considered because it was not accompanied by a 1.97(e) certification. This response is being submitted with a Request for Continued Examination and an IDS resubmitting the references included on the IDS submitted May 9, 2007.

Allowable Subject Matter

Applicants gratefully acknowledge the Examiner's statement indicating that claims 3, 11-14, 16-19, 25-28, 30, 36-37, 39, 42, and 51-53 would be allowable if rewritten in independent form. Applicants respectfully defer redrafting the allowable claims in independent form pending a final resolution regarding the patentability of the remaining claims.

§ 103 Rejections

Applicants gratefully acknowledge the Examiner's prior consideration and response to the following arguments. However, Applicants would appreciate the Examiner's reconsideration of these arguments.

- (A) Claims 1-2, 7-9, 22-24, 31-32, 35, 38, 40-41, and 47-50 stand rejected under 35 USC § 103(a) as purportedly being unpatentable over Johnson (5178924) ("Johnson1").

The present application relates to adhesive articles including both a pressure sensitive adhesive (PSA) and a heat activatable adhesive (HAA) on opposite sides of a substrate. The articles include a release liner having a release surface and a roll stability layer. The release layer is provided for contact with and protection of the PSA. The roll stability layer contacts the

HAA when the adhesive article is wound upon itself to form a roll. (See, e.g., FIG. 1 and the description at col. 4, lines 39-58.)

U.S. Patent No. 5,178,924 (Johnson1) describes a release liner having a release surface intended to contact a PSA and a “friction enhancing agent” for roll stability. The only friction enhancing agent mentioned by Johnson1 is a tackified ethylene acrylic acid (EAA) material. (See Johnson1, at col. 4, line 67 – col. 5, line 24.)

Contrary to Johnson1, each claim of the present application requires a roll stability layer comprising an ethylene vinyl acetate (EVA).

The Examiner acknowledges that Johnson1 fails to teach a backside stability layer comprising EVA. To overcome this admitted deficiency, the Examiner asserts that

(1) Johnson1 discloses that the backside of the release liner is provided with a layer of EAA to provide roll stability; and

(2) Johnson1 discloses that the release material can be ethylene acrylic acid (EAA) or EVA. From this, the Examiner concludes that “it would have been obvious to one of ordinary skill in the art to use EVA as the release material, instead of EAA, because the two are functionally equivalent as the friction reducing release material and would provide roll stability.” (Office Action mailed September 16, 2006, and maintained in the Final Office Action of April 23, 2007, emphasis added.)

Applicants respectfully submit that the mere fact that two materials are listed as alternatives for one purpose (e.g., as a release material) does not provide a logically or legally sufficient basis for concluding that those two materials are functionally equivalent for any other purpose (e.g., as a roll stability layer or as a friction enhancing agent). (See, e.g., MPEP § 2144.06 (“In order to rely on equivalence as a rational supporting an obviousness rejection the equivalence must be recognized in the prior art, and cannot be based on ... the mere fact that the components at issue are functional or mechanical equivalents.” (Emphasis added, citing *In re Ruff*, 256 F.2d 590, 118 USPQ 340 (CCPA 1958)).)

For at least these reasons, the rejection of claims 1-2, 7-9, 22-24, 31-32, 35, 38, 40-41, and 47- under 35 USC § 103(a) as purportedly being unpatentable over Johnson (5178924) (“Johnson1”) is unwarranted and should be withdrawn.

- (B)** Claims 6, 10, 15, 20-21, 29, 33-34, and 45-46 stand rejected under 35 USC § 103(a) as purportedly being unpatentable over Johnson1 in view of Johnson (5167995) (“Johnson2”).

Independent claims 15, 21, and 29 provide articles that require a roll stability comprising an EVA. As discussed above in Section (A), the Patent Office has failed to show how Johnson1 renders such articles obvious. Applicants respectfully submit that the Patent Office has failed to show how Johnson2 overcomes these deficiencies.

For at least these reasons, the rejection of independent claims 15, 21 and 29 under 35 USC § 103(a) as being unpatentable over Johnson1 in view of Johnson (5167995) is unwarranted and should be withdrawn.

Claims 6, 10, and 20 depend from claim 1, claims 33 and 34 depend from claim 21, and claims 45 and 46 depend from claim 40; wherein each of the dependent claims adds patentable features to its corresponding dependent claim. Each of independent claims 1, 21, and 40 are patentable for at least the reasons stated above; thus, each of the dependent claims is likewise patentable.

- (C)** Claims 4-5 and 43-44 stand rejected under 35 USC § 103(a) as purportedly being unpatentable over Johnson1 in view of Reinders (6037028).

Claims 4-5 depend from claim 1 and add patentable features thereto. Similarly, claims 43-44 depend from claim 40 and add patentable features thereto. Claims 1 and 40 are patentable over Johnson1 for at least the reasons stated above in Section (A). Applicants respectfully submit that the Patent Office has failed to show how Reinders overcomes the deficiencies of Johnson1.

For at least these reasons, the rejection of claims 4-5 and 43-44 under 35 USC § 103(a) as purportedly being unpatentable over Johnson1 in view of Reinders (6037028) is unwarranted and should be withdrawn.

- (D)** Claim 55 stands rejected under 35 USC § 103(a) as purportedly being unpatentable over Johnson1 in view of Reinders (6037028).

Claim 55 depends from claim 21. Claim 21 is patentable over claim Johnson1 for at least the reasons discussed above in Sections (A) and (B). Applicants respectfully submit that the Patent Office has failed to show how Reinders overcomes the deficiencies of Johnson1. For at least these reasons, the rejection of claim 55 under 35 USC § 103(a) as purportedly being unpatentable over Johnson1 in view of Reinders (6037028) is unwarranted and should be withdrawn.

In view of the above, it is submitted that the application is in condition for allowance. Reconsideration of the application and allowance of all pending claims is respectfully requested.

Respectfully submitted,

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